

MINUTES

North Dakota State Water Commission
Bismarck, North Dakota

July 23, 1984

The North Dakota State Water Commission held a meeting on July 23, 1984, in the Fort Union Room of the State Capitol, Bismarck, North Dakota. Governor-Chairman, Allen I. Olson, called the meeting to order at 9:30 a.m., and requested Secretary, Vernon Fahy, to present the agenda.

MEMBERS PRESENT:

Allen I. Olson, Governor-Chairman
Kent Jones, Commissioner, Department of Agriculture, Bismarck
Florenz Bjornson, Member from West Fargo
Garvin Jacobson, Member from Alexander
Alvin Kramer, Member from Minot
Guy Larson, Member from Bismarck
Ray Hutton, Member from Oslo, Minnesota
Henry Schank, Member from Dickinson
Vernon Fahy, State Engineer and Secretary, North Dakota
State Water Commission, Bismarck

MEMBER ABSENT:

Bernard Vculek, Member from Crete

OTHERS PRESENT:

State Water Commission Staff Members
Approximately 25 persons interested in agenda items

The attendance register is on file in the State Water Commission offices (filed with official copy of minutes).

The meeting was recorded to assist in compilation of the minutes.

CONSIDERATION OF MINUTES
OF MAY 3, 1984 MEETING -
APPROVED

The minutes of the May 3, 1984 meeting were approved by the following motion:

It was moved by Commissioner Schank, seconded by Commissioner Hutton, and unanimously carried, that the minutes of May 3, 1984 be approved as presented.

REPORT ON PROGRESS OF
SOUTHWEST PIPELINE PROJECT
(SWC Project No. 1736)

Robert Dorothy, Project Manager for the Southwest Pipeline Project, reported on the three phases of land acquisition for the: 1) water treatment plant; 2) 18 facility sites, of which options for purchase have been obtained for 13 of the sites; and 3) pipeline easements.

Relative to obtaining the easements for the pipeline, Mr. Dorothy indicated that requests for proposals were sent out to 26 firms throughout the United States, of which 10 proposals were submitted. These proposals were reviewed and analyzed and three firms were selected for interviews: 1) Great Plains Land Service Company of Bismarck; 2) Coates Field Service of Oklahoma City; and 3) Continental Field Service of New York.

Secretary Fahy further explained the procedure for the selection of a firm for acquisition of the pipeline easements and requested the Commission's approval for the State Engineer and staff to negotiate with the three firms listed and to authorize the State Engineer to negotiate the best contract possible.

It was moved by Commissioner Kramer, seconded by Commissioner Larson, and unanimously carried, that the State Engineer and staff be authorized to negotiate with the three firms listed above and negotiate the best contract possible in the selection of a firm for obtaining easements for the Southwest Pipeline.

Mr. Dorothy discussed the proposed financing program for the project stating that the Bond Underwriters met with the Industrial Commission and the Interim Budget Section on May 15, 1984 to explain the plan of finance, the proposed bond resolution, and the agreement between the State Water Commission and the State Industrial Commission. These items were approved by the State Industrial Commission.

On July 12, 1984, a meeting was held with the Southwest Advisory Committee at which time the plan of financing was discussed in detail. Mr. Dorothy stated there was some concern expressed relative to the plan for the priority pledge that the Bond Underwriters have endorsed, and the Advisory Committee recommended that an alternate plan be explored.

Mr. Dorothy reported that some of the water organizations in the State have prepared a water display which is available if the Commission members would like to have it displayed in their respective communities.

Mr. Bruce McCollom reported on the progress of the final design of the overall project indicating that the design is approximately 20 percent complete.

Relative to prior mention of the use of asbestos cement pipe, Mr. McCollom indicated that under specific

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Authorization 19, which deals with the study of pipeline materials, asbestos cement pipe is being studied with regard to the engineering feasibility and cost of using this material and a report will be provided to the Commission members and staff on all of the pipeline materials that are being considered for use.

Mr. Joe Cichy reported on the North Dakota Supreme Court hearing relating to the Southwest Pipeline bonding, held on July 2, 1984. He explained the purpose of the hearing is to assure that all aspects of the project are legal and comply with the Constitutional provisions of the State prior to selling of the bonds. The necessity that this validity be assured was recognized by the last session of the Legislature and the bonding officials; therefore, legislation was passed authorizing the State Water Commission to have this action brought. Mr. Cichy stated that if a favorable ruling is not received from the Supreme Court then the bonds cannot be sold and alternative methods of financing would have to be developed. Mr. Cichy said the key issue in this case is the constitutional debt limit. Article 10 of Section 13 of the North Dakota Constitution allows a maximum amount of indebtedness of \$2 million. Mr. Cichy indicated that a decision on the merits of the case is expected by the end of July, 1984.

Mr. Cichy reported on action taken by the Legislative Interim Water Committee which will be presented to the 49th Legislative Assembly: 1) to increase the Resources Trust Fund allocation from 10 to 15 percent; 2) to broaden the uses of the Resources Trust Fund from water supply facilities to whatever the State Water Commission has the authority to construct; 3) to establish procedures and criteria for political subdivisions to be used in applying for funds from the Resources Trust Fund; 4) reduce the term of water managers of water resource boards from five to three years; 5) resolution declaring that the Garrison Diversion project receive top priority with regard to water development in the State; 6) that the State Water Commission and the Bank of North Dakota work together to develop a financing package for water projects; and 7) request to return \$11.7 million to the Resources Trust Fund that was used last biennium for projects other than water projects. Mr. Cichy said the Committee failed to approve a bill draft that would allow one county commissioner on water resource boards and also a bill draft regarding water use tax.

Secretary Fahy stated that the 1985-1987 proposed budget requests a total of \$36 million for the Southwest Pipeline Project (\$300,000 for general operations, \$11.7 million to be restored to the Resources Trust Fund, and from income of the Resources Trust Fund \$24 million be set aside for this project). Secretary Fahy explained that the breakdown of the total request of \$36 million is consistent with the presentations that have been made to the Industrial Commission on the bond resolution and the financing efforts and is consistent with what the Bond Counsel will be discussing in terms of financing the project.

Mr. McCollom indicated that he has slides from the WEB project in South Dakota which have similar aspects to

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the Southwest Pipeline Project, and agreed to show the slides at the Commission's next meeting. The Commission members expressed an interest in viewing the slides.

CURRENT STATUS REPORT
OF GARRISON DIVERSION PROJECT
(SWC Project No. 237)

Mr. Murray Sagsveen updated the Commission members on the status of the Garrison Diversion Project. He indicated that a bill has been signed into law which provides approximately \$53 million in appropriations for the project. The bill also indicates that a 12-member Commission be established to evaluate water needs in North Dakota, evaluate the Garrison Diversion Unit, and to submit a report to the Secretary of the Interior and Congress by December 31, 1984. The Secretary of the Interior is authorized and directed to implement the provisions of the report that are consistent with the existing authorization. Mr. Sagsveen indicated this evaluation will lead to at least a one-season's delay in the construction of the Garrison Diversion Project. The Secretary of the Interior is expected to appoint the 12-member Commission by the end of July with a staff in Washington, D.C. and a technical staff located in Bismarck. Tentative agenda calls for a tour in North Dakota during the first part of August as well as the Commission commencing its activities at that time; the first public hearings are tentatively scheduled for early September to discuss modifications and alternatives to the Garrison Diversion Unit; staff will prepare a report after the first hearing which will be released about October 29; hearing on the Interim Report after October 29; and the Preliminary Final Report by December 10.

The Commission members heard general comments relative to the Garrison Diversion Project from Mr. William Guy, and at the conclusion of Mr. Guy's remarks draft resolutions were presented for the Commission's consideration.

One draft resolution presented by Mr. Guy relates to United States/Canadian drainage reciprocity. Mr. Guy made reference to the fact that Canada and Manitoba have opposed the Garrison Diversion Project saying it could be a possible source of transfer of Missouri River aquatic life to the United States/Canadian drainage, possible negative environmental effects and the possible adverse economic affect to Canadian fishermen. Mr. Guy noted that although Canada and Manitoba are opposed to this project they are now seeking to enlarge the beneficial use of their downstream United States/Canadian drainage water to generate hydroelectricity for transmission across and sale in upstream North Dakota. The transmission of Canadian hydroelectricity would impose negative environmental effects from towers and power lines across the farms of this upstream state and the sale of downstream generated Manitoba hydroelectricity in North Dakota would reduce the demand for coal-fired electric generation and would cause the adverse economic effect of throwing North Dakota people out of work in the coal mining and coal conversion industries in this upstream state and would reduce tax revenues to the state and local governments.

Mr. Guy stated he believes that midcontinent international upstream and downstream water related development should take place in an atmosphere of mutual understanding and

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recognition of mutually beneficial tradeoffs, and urged the State Water Commission to consider the draft resolution that would request the North Dakota Legislature to take whatever action is necessary to bring about a condition and atmosphere of upstream and downstream reciprocity in the United States/Canadian drainage so that the water resource development in northern and east-central North Dakota can again go forward and the United States can again consider the possible benefits to this country of the use of Canadian hydroelectric power.

In discussion of the second draft resolution presented by Mr. Guy, he referred to the Pick-Sloan Missouri Basin Program that was originally accepted by all ten states in the Missouri River Basin as an integrated program combining upstream irrigation projects with other benefits such as downstream flood control and navigation. He said the downstream benefits of flood control and navigation are possible only as a result of permanent inundation behind the huge mainstem dams in Montana, North Dakota, and South Dakota which cause adverse economic impacts estimated to be \$96 million annually in North Dakota. The upstream states were assured by Congress in the Flood Control Act of 1944 that irrigation projects in their states would help to offset their permanent flood losses which make possible downstream flood protection and navigation. He indicated that the downstream interests have resorted to lawsuits, demagoguery, and abandonment of support for upstream irrigation or other forms of Missouri River diversion in North Dakota and South Dakota and have continued to receive flood control and navigation benefits at no cost or user fees to them, which upstream benefits of irrigation are reimbursable to the Federal Government through user fees and hydroelectric revenues.

Mr. Guy requested the Commission to consider the draft resolution that would request the North Dakota Congressional Delegation to prepare legislation which would levy federal downstream navigation fees and flood protection taxes to raise the federal funds to complete upstream Pick-Sloan irrigation such as the Garrison Diversion Irrigation project in North Dakota.

Governor Olson responded to the proposed draft resolutions presented for the Commission's consideration noting they are particularly timely and appointed the following subcommittees to review the resolutions and report back to the Commission members. The subcommittee appointed to review the draft resolution relating to the United States/Canadian Drainage Reciprocity were Commissioner Kramer, Chairman, and Commissioners Bjornson and Hutton. The subcommittee appointed to review the draft resolution relating to downstream states were Commissioner Larson, Chairman, and Commissioners Vculek, Schank and Jacobson.

DEAD COLT CREEK
DAM DEDICATION
(SWC Project No. 1671)

Mr. Dave Sprynczynatyk reported that tentative plans are to hold the dedication ceremonies for the Dead Colt Creek Dam approximately the third week in September in Lisbon.

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REPORT ON CONTRACT
FUND STATUS
(SWC Project No. 1753)

projects that would qualify for cost sharing at the end of the biennium if funds remain. A listing of the projects that could qualify for cost sharing at the end of the biennium if funds remain, and also a listing of projects that have been approved since the February 21, 1984 meeting of the Commission when it adopted the principle of cost sharing in engineering fees were discussed.

Dave Sprynczynatyk noted that at the Commission's May 3, 1984 meeting, the State Engineer and staff were directed to prepare a list of

CONSIDERATION OF REQUEST FROM
BURLEIGH COUNTY WATER RESOURCE
DISTRICT FOR COST SHARING IN
LONG LAKE HYDROLOGIC ANALYSIS
STUDY
(SWC Project No. 385)

A request was presented for the Commission's consideration from the Burleigh County Water Resource District to cost share in a hydrologic analysis of the Long Lake - McKenzie Slough area. The cost of the study is approximately \$22,000.

Mr. Jim Eastgate, representing the Burleigh County Water Resource Board, explained the flood reduction project and requested the Commission's favorable consideration to cost share with the local board on a 50-50 basis of the non-federal costs.

It was the recommendation of the State Engineer that the Commission favorably consider this request to cost share with the Burleigh County Water Resource District in 50 percent of the local costs, not to exceed \$11,000, contingent upon the availability of funds.

It was moved by Commissioner Larson, seconded by Commissioner Jacobson, and unanimously carried, that the State Water Commission approve cost sharing in 50 percent of the local costs to conduct a hydrologic analysis of the Long Lake - McKenzie Slough area, not to exceed \$11,000. This motion shall be contingent upon the availability of funds.

REPORT ON SHEYENNE RIVER
FLOOD STUDY STATUS
(SWC Project No. 1344)

done although alternatives are being looked at. Work will continue with the Water Managers in the area and the Commission will be kept informed of further development.

Dave Sprynczynatyk reported on the progress of the Sheyenne River Flood Control Project noting that to date only limited work has been

DISCUSSION OF 1985-1987 BUDGET

filed with the Office of Management and Budget, and briefly discussed the procedure that was used in preparing the budget.

Matt Emerson indicated that the proposed 1985-1987 budget has been

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CONSIDERATION OF AGENCY
FINANCIAL STATEMENT

of the current fiscal position, the agency is within the limitations imposed by the Legislature.

Matt Emerson distributed and discussed the agency's financial statement and indicated that in terms

FIELD TRIP TO MENOKEN
SALINITY AND DRAINAGE
RESEARCH PROJECT
(SWC Project No. 1551)

water for supplemental irrigation of shallow soils to eliminate, or at least materially reduce the need for artificial drains, giving major consideration to possible adverse effects from buildup of salinity zones.

The Commission members participated in a field trip to Menoken to view a salinity and drainage research project. The purpose of the project is to learn how to best manage

It was moved by Commissioner Jones, seconded by Commissioner Hutton, and unanimously carried, that the meeting adjourn at 11:30 a.m.


Allen I. Olson
Governor-Chairman

ATTEST:


Vernon Fahy
State Engineer and Secretary

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